

REDEVELOPMENT AGENCY RESOURCES FOR AFFORDABLE HOUSING IN SOUTHERN CALIFORNIA

JULY, 1990

Community & Economic Development Department

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Redevelopment Agency Resources for Affordable Housing in Southern California

July, 1990

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TABLE OF CONTENTS

	<u>PAGE</u>
I. Executive Summary	1
II. Preface	4
III. Introduction	6
1. State Redevelopment Law	6
2. Use of Funds	7
3. Economic Dilemma	8
IV. Status of Low and Moderate Income Housing Accounts	9
1. Agencies Reporting their Activities	9
2. Expenditures	10
3. Units Assisted	11
4. Ending Balance	12
5. State HCD Estimate of Funds Available	12
A. Value of Land Held for Residential Use	15
6. Exemptions and Deferrals	16
A. Exemptions	16
1. No Need Exists in the Community	16
2. Less than 20% Setaside is Needed	16
3. Equivalent Impact	17
B. Deferrals	17
1. Less than 20% Setaside Due to Existing Obligations	18
2. Less than 20% Setaside in Order to Complete Activities in Timely Manner	19
3. Less than 20% for Military Base Reuse	19
V. Housing Element Status of Redevelopment Agency Communities	21
1. Status as of March 31, 1990	21

Appendices:

- I. 1988-89 Status of Redevelopment Low and Moderate Income Housing Funds
 - 1. Ventura County
 - 2. Los Angeles County
 - 3. Orange County

4. Riverside County

5. San Bernardino County

6. Imperial County

7. Regional Summary

II. Status of Deferrals

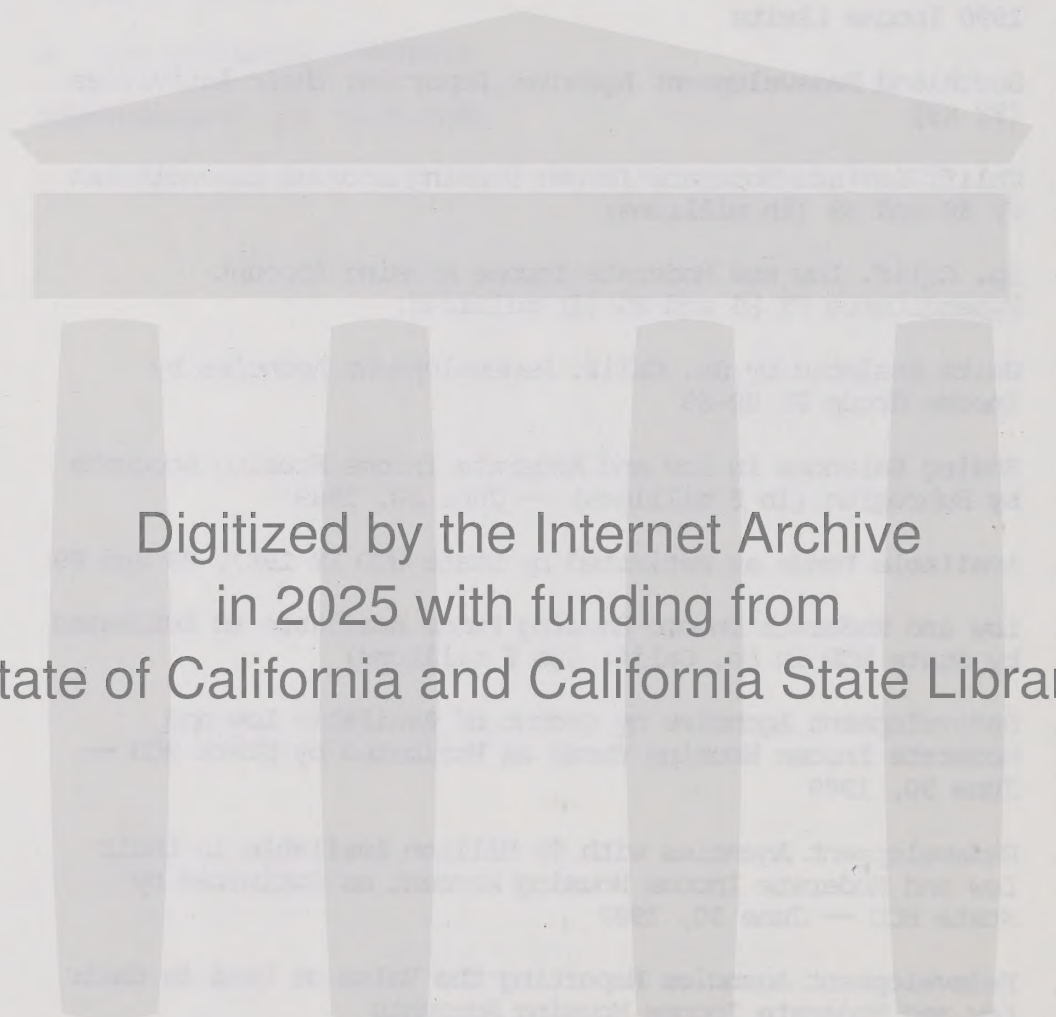
8. Tax Increment Deferrals

IV. Redevelopment Law (excerpts)

9. Health & Safety Code 33320.5 and 33334.1 to 33334.15

TABLES

	<u>PAGE</u>
1. So. Calif. Median Home Prices -- March, 1990	4
2. 1990 Income Limits	7
3. Southland Redevelopment Agencies Reporting their Activities (FY 89)	9
4. Calif. Low and Moderate Income Housing Account Expenditures FY 88 and 89 (in millions)	10
5. So. Calif. Low and Moderate Income Housing Account Expenditures FY 88 and 89 (in millions)	11
6. Units Assisted by So. Calif. Redevelopment Agencies by Income Group FY 88-89	11
7. Ending Balances in Low and Moderate Income Housing Accounts by Subregion (in \$ millions) -- June 30, 1989	12
8. Available Funds as Estimated by State HCD FY 1987, 88 and 89	13
9. Low and Moderate Income Housing Funds Available as Estimated by State HCD in So. Calif. (in \$ millions)	13
10. Redevelopment Agencies by Amount of Available Low and Moderate Income Housing Funds as Estimated by State HCD -- June 30, 1989	14
11. Redevelopment Agencies with \$5 Million Available in their Low and Moderate Income Housing Account as Estimated by State HCD -- June 30, 1989	15
12. Redevelopment Agencies Reporting the Value of Land in their Low and Moderate Income Housing Accounts	15
13. Status of State HCD Reviews of Local Housing Elements for Jurisdictions With and Without a Low and Moderate Income Housing Fund -- March 1990	21



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I. Executive Summary

State law authorizes the use of tax increment financing, eminent domain and other extraordinary powers to achieve redevelopment goals in defined project areas. As a condition of using these resources and powers, State law also requires the establishment of a Low and Moderate Income Housing Fund for "...the purposes of increasing and improving the community's supply of low and moderate income housing." The increase in property tax revenues occurring as a result of new private investment must be used for public improvements in the project areas, while affordable housing may be built anywhere in the community.

Affordable housing activities and programs are financed with 20% of all property tax increments generated by a redevelopment area(s) and placed in a Low and Moderate Income Housing Account. These local funds are available to meet communitywide affordable housing needs or may be leveraged in combination with private, State, Federal and other resources. Unlike other resources, they represent a predictable source of funds that are not subject to governmental budgetary constraints and discretionary or competitive application making. As the affordable housing tax increments become available, they may be put to use.

In the annual report prepared by the State Department of Housing and Community Development (HCD) entitled, "Redevelopment Agencies in California: The Effect of Their Activities on Housing-Fiscal Year 1988-1989," dated April, 1990, the State HCD reported that the ending balance in Southern California redevelopment agency Low and Moderate Income Housing Accounts was almost \$1/4 billion and that there was an indebtedness to these accounts by older project areas of another \$44 million (due to agencies temporarily borrowing housing funds for other purposes per local findings). While 1/2 of all the State's redevelopment agencies with Low and Moderate Income Housing Accounts are located in the Southland, the region accounts for 75% of the total in the ending balance and in setaside deferrals.

State HCD also estimated that at least \$180 million out of the \$1/4 billion in the Low and Moderate Income Housing Accounts was unencumbered and available as of June 30, 1989 to support local housing activities. Given the leveraging potential of these affordable housing funds, a dollar amount of at least 3 times these resources remain unused to address the regional housing needs of modest income people and the poor.

In its March 31, 1990 report on the Status of Housing Elements, State HCD found that there was a high incidence of local government noncompliance with California housing law. Among Southern California jurisdictions with a redevelopment agency Low and Moderate Income Housing Account, 77% had a Housing Element that was out of compliance with the State Housing Element Law. For other jurisdictions, 96% of the jurisdictions had Housing Elements that were out of compliance.

The extent of noncompliance, among jurisdictions that have had their Housing Elements reviewed by the State, evidences a serious gap between what the State views as "in conformance" and what local jurisdictions view as "in conformance." This is significant since redevelopment agencies may exempt or provide less than 20% of their tax increments for affordable housing based on a finding that the action is consistent with the local housing element. However, in instances, where the state has found that the local housing element is not in compliance with state law, the local finding of housing element consistency may be open to legal challenge.

For public policy purposes, the multijurisdictional nature of a statewide housing crisis makes it difficult to achieve a consensus on how to address the problem of increasing the supply of affordable housing. Balancing affordable housing opportunities between major subregions, counties, cities and neighborhoods, in the face of competing economic and community needs, has placed redevelopment agencies in the forefront of the southern California growth management debate. An emerging issue for local governments is how to maintain consistency with California housing and redevelopment law as they pursue revitalization goals and retool their local economies for the 1990's.

Major Findings Related to Special Low and Moderate Income Housing Funds

- o There are 198 redevelopment agencies in the State of California with Low and Moderate Income Housing Accounts. About 1/2 of these agencies are located in the Southern California counties of Ventura, Los Angeles, Orange, Riverside, San Bernardino and Imperial (99 agencies).
- o Affordable housing expenditures in Southern California dropped from \$100.5 million in 1987-88 to \$76.4 million in 1988-89 (-24%).
- o 4,136 units were assisted by 27 out of a total of 99 redevelopment agencies in the Southland. Almost 1/4 of these units were assisted by one agency -- the City of Los Angeles Community Redevelopment Agency. Many agencies report housing related expenditures, but not units assisted.
- o Large Low and Moderate Income Housing Account balances exist in every area of the region. Almost \$128.4 million was added in 1988-89 due to added tax increments, debt proceeds and other revenues. This amount is 68% greater than the amount expended.
- o Southern California Redevelopment Agencies reported a \$249.6 million dollars ending balance in their Low and Moderate Income Housing Accounts. Assuming a \$40,000 in "gap" financing subsidy, the money needed to make up the difference between development costs and affordable rent levels, potentially these funds could generate 6,250 units for persons with very low and low income. More units could be produced if moderate income housing is also provided.
- o The State Department of Housing and Community Development estimates that almost \$180 million out of the \$1/4 billion dollars in Southern California Low and Moderate Income Housing Accounts was immediately available for use, as of July 1, 1989.

- o The State Department of Housing and Community Development estimated that there are 36 redevelopment agencies in Southern California (1/3) that had \$1 million or more immediately available for low and moderate income housing assistance. Nine of these agencies had more than \$5 million available. The largest amount estimated as available was in the City of Los Angeles redevelopment agency — \$44.5 million.
- o Five redevelopment agencies in Southern California reported that no need exist in their community to improve or increase the supply of affordable housing and exempted themselves from the 20% tax increment setaside for affordable housing in 5 project areas.
- o Seven redevelopment agencies in Southern California reported that some stated percentage less than 20% of tax increment was needed to address community housing needs and reduce their setaside requirement for 7 project areas.
- o Twenty-two redevelopment agencies found that they were making substantial efforts to meet existing and projected housing needs, particularly its regional fair share of very low income household needs, and that their effort was equivalent in impact to the funds that would be otherwise setaside. This finding was made for 22 project areas.
- o In 42 pre-1977 Southern California project areas, the required deposit of tax increment funds in a Low and Moderate Income Housing Account was being deferred. The resulting indebtedness, as of June 30, 1989 was \$44 million.
- o The State Department of Housing and Community reported that 77% of the jurisdictions with redevelopment agencies in Southern California had Housing Elements that were not in compliance with state law as of March 30, 1990.

II. Preface

The 1988 Regional Housing Needs Assessment (RHNA) issued by the Southern California Association of Governments (SCAG) identified a significant lack of affordable housing throughout the Southland. The Assessment estimates that almost 1 million lower income households (not including moderate income households) pay more than 30% of their income for shelter and another 1/4 million of these households will need affordable housing over the next 5 years due to anticipated economic and population growth. This need does not take into account lower income households living in substandard units, the extent of overcrowding, needs by household type (i.e. handicapped, seniors and families) and the extent of homelessness -- such specific housing needs are documented in local Housing Elements.

First time homebuyers and home seekers from other areas of the country and the state are also impacted by the housing affordability problem. For instance, the California Association of Realtors notes in its California Real Estate Trends newsletter, dated March, 1990, that the affordability index (the percent of households that can afford the median priced home) ranges from a very low 12-16% in the coastal counties of Southern California (Ventura, Los Angeles and Orange Counties) to a low of 29% in the inland counties and desert areas (Riverside and San Bernardino). Even in remote desert areas, home prices in Southern California are well above the national median home price. The median home prices by county (half cost more, half cost less) are as follows:

Table 1

Southern California Median Home Prices
March, 1990

County	Price
Ventura	\$241,000
Los Angeles	\$210,000
Orange	\$246,000
Riverside	\$131,000
Lower Desert (RIV)	\$115,000
San Bernardino	\$131,000
High Desert (SB)	\$104,000
State	\$197,000
National	\$96,000

Source: California Association of Realtors

The largest source of capital in California for affordable housing comes from the 20% tax increment revenue generated by redevelopment agency activities. These funds must be set aside in a special Low and Moderate Income Housing Account and used to increase affordable housing opportunities for low and moderate income households. Due to the region's vibrant and growing economy, especially over the last decade, these funds

are amassing in Southern California at an estimated annual rate today of \$128.4 million per year. If our economy remains healthy, these resources are expected to continue to grow in the years ahead. Putting these resources to use in a timely, efficient and effective manner will significantly determine how much of our affordable housing need will be met by local governments and their redevelopment agencies.

III. Introduction

This report is a regional assessment of the use and availability of "affordable" housing funds set aside by redevelopment agencies in Southern California. It is based upon the annual report issued by the State Department of Housing and Community Development (HCD) entitled, "Redevelopment Agencies in California: The Effect of their Activities on Housing Fiscal Year 1988-1989," dated April, 1990 and, to a lesser extent, the State HCD report entitled, "Status of Housing Elements," dated March, 1990.

1. State Redevelopment Law

All redevelopment project areas in the State, regardless of when they were formed, are required to set aside 20 percent of their tax increment revenues for low and moderate income housing unless certain findings are made to either exempt or defer this obligation (Health & S.C. 33334.2 & 33334.6). This requirement was adopted by the legislature when it passed AB 265 (Hughs) in 1985.

AB 265 reemphasized a 1971 legislative finding that a fundamental purpose of redevelopment is to "expand the supply of low and moderate income housing" by adding "...that the provision of housing is itself a fundamental purpose of redevelopment law" and that the use of tax increments to provide housing affordable to low and moderate income households "...is a Statewide benefit and of particular benefit and assistance to all local government agencies in the areas where the housing is provided" (Health & S.C. 33334.6(a)). It also went on to confer priority status for State housing assistance (California Housing Finance Agency and State Department of Housing and Community Development) on programs or projects utilizing redevelopment funds when such applications meet state program regulations (Health & S.C. 33334.7).

Tax increments represent the increase in property tax values accruing in a defined redevelopment area when assessed property values rise over time. Because property values are frozen at the commencement of redevelopment, the tax increment is the dollar difference between the "frozen" assessed value and the current assessed value for tax purposes. The increment in property taxes paid is diverted to the redevelopment agency so that it can undertake eligible activities. The law stipulates that 20% of these revenues must be set aside to address communitywide housing needs unless applicable findings are adopted annually which exempt the agency from this requirement or defer this obligation.

Tax increment revenue is a primary source of funds for low and moderate income housing construction and rehabilitation. Besides their use in meeting agency replacement housing and relocation responsibilities, these moneys can be used to increase and improve a community's supply of low and moderate income housing both inside and outside of redevelopment areas. They may not be used in another jurisdiction.

2. Use of Funds

Redevelopment agencies may use tax increment funds in combination with local loans and grants, federal funds (Community Development Block Grant), federal rent subsidies (Section 8), moneys from State program sources, private financing and federal and state tax credits. Leveraged, these resources represent several times their dollar value.

Redevelopment agencies can accomplish their housing goals by acquiring land and structures, making sites available for new construction, donating or writing down land costs, making site related improvements, providing administrative support and predevelopment loans to non profit housing sponsors, providing below market financing, making equity contributions to lower mortgage costs or rents to levels within the means of low and moderate income households and provide subsidies to or for the benefit of such households (at least 1/2 of the units provided must be affordable to lower income households). The same approaches can be used to rehabilitate and preserve housing for low and moderate income household use.

In addition, redevelopment agencies may also provide replacement housing, build or acquire residential hotels, maintain the supply of mobile homes and preserve the availability of affordable housing assisted or subsidized by public entities which are threatened by imminent conversion to market rates. Nonprofit and profit motivated sponsors may apply for available funds. In some communities, Housing Trust Funds have been set up to govern the use and allocation of funds. The resources may be used inside project areas or outside of these areas if the housing benefits the project (Health & S.C. 33334.2(e)).

The new, rehabilitated or preserved housing units developed or otherwise assisted by a Low and Moderate Income Housing Fund must remain affordable for the "longest feasible time", but not less than 15 years in the case of rental units and 10 years for owner occupied housing (Health S.C.33334.3 (e) (1), (2)).

Tax increment financing is an increasingly significant resource for providing housing assistance to low and moderate income households. Low income households are defined as persons or families earning no more than 80% of the county median income as defined by the Federal Department of Housing and Urban Development (HUD). Moderate income households may earn no more than 120% of the county median income and these limits are set by the State Department of Housing and Community Development (HCD). Table 2 provides the income limits for housing assistance by County.

Table 2
1990 Income Limits

County	Very Low 0-50%	Low 51-80%	Moderate 81-120%	Median 100%
Ventura	\$22,600	\$35,700	\$54,240	\$45,200
Los Angeles	\$20,850	\$31,100	\$46,680	\$38,900
Orange	\$24,550	\$35,700	\$58,920	\$49,120
Riverside	\$16,900	\$27,050	\$40,560	\$33,800
San Bernardino	\$16,900	\$27,050	\$40,560	\$33,800
Imperial	\$15,450	\$23,500	\$31,120	\$26,100

Income Limits vary by family size. The Income limits shown are for a household of four persons. The lower income limits in high cost areas (Orange and Ventura Counties) are set at an amount no greater than the national median income level of \$35,700, rather than the higher amounts represented by 80% of their median income.

3. Economic Dilemma

Redevelopment Agencies are in the business of economic revitalization. They depend on tax increments to fuel economic growth for their community. Redevelopment law requires a balancing of growth with replacement and affordable housing needs. Yet housing is viewed as an economic loser when compared to retail or commercial development. Some would contend that local governments cannot "afford" housing since, as an elected official once noted, "it pays about 1/3 of local taxes and consumes 2/3 of the services." In the era of Prop 13 and the Gann Amendment, local strategies are geared to competing for economic growth and protecting a situation which assures a continuing increase in property values. This has the potential to conflict with the goal of providing affordable housing. Economic growth alone does not take into account the adverse legal, infrastructure, environmental (job/ housing balance), income diversity and equal housing opportunity costs of not providing adequate housing.

IV. Status of Low and Moderate Income Housing Accounts

1. Agencies Reporting their Activities

The State Housing and Community Development Department (HCD) report is based on annual reports submitted by redevelopment agencies to the State Controller. These reports are required annually by State Law and must include housing-related information on a special survey developed by State HCD. State HCD compiles the survey information to meet its own State law reporting requirements. No fiscal information is included for non reporting and inactive redevelopment agencies.

In fiscal year 1989 (July 1, 1988 to June 30, 1989) the state received housing-related information from 198 redevelopment agencies from throughout the state. Among reporting agencies, 99 were from Southern California (Ventura, Los Angeles, Orange, Riverside, San Bernardino and Imperial Counties). There were 32 non-reporting agencies statewide, including 9 from the Southland.

The distribution of reporting and non-reporting agencies in southern California by county is provided in Table 3. Approximately 2/5 of reporting agencies are located in Los Angeles County. The next highest concentration of agencies are in Orange County (1/5) and Riverside County (1/5). The remaining 1/5 of reporting agencies are primarily located in San Bernardino County.

Table 3

Southland Redevelopment Agencies
Reporting their Activities
(FY '89)

County	Agencies	(NR)
Ventura	6	(3)
Los Angeles	40	(3)
Orange	19	(0)
Riverside	17	(1)
San Bernardino	13	(1)
Imperial	3	(1)
Total	99	(9)

NR = Non Reporting

Appendices 1-7, entitled "1988-89 Status of Redevelopment Low & Moderate Income Housing Funds," contain listings by county of each jurisdiction with a reporting redevelopment agency. They also list non-reporting agencies. The listings contain information on funds expended, units assisted by income level, the June, 1989 ending balance in the local Low and Moderate Income Housing Account and the State HCD estimate of funds available.

2. Expenditures

The level of redevelopment agency expenditures does not relate well to units assisted in the same year, or in the subsequent year or in the value of land purchased for housing assistance in later years. This lack of an intuitive relationship between fund expenditures and units assisted may be due to several reasons, including but not limited to, the lag time between the expenditure of funds and the construction of units and reporting difficulties associated with the wide use of funds for eligible expenses related to housing assistance but not necessarily related to production goals (i.e., planning and administration, infrastructure improvements, etc.).

Expenditure levels are an indicator of current housing efforts which will eventually result in housing assistance in later years. From this standpoint, fiscal year 1989 was not as good a year for affordable housing as 1988.

Across California, State HCD reported redevelopment agency expenditure levels dropped from \$164.7 million in 1988 to \$117.5 million in 1989. This was almost a 30% fall in affordable housing expenditures. Proportionately, the biggest percentage drop occurred outside of the region (36%). In Southern California, the expenditure level dropped from \$100.5 million in 1988 to \$76.4 million in 1989 (-24%), as noted in Table 4 below.

Table 4

California Low and Moderate Income
Housing Account Expenditures
FY 1988 and FY 1989 (in millions)

Area	FY'88	FY'89	Pct Chg
SCAG Region	\$100.5	\$76.4	-24.0
Remainder of Ca.	64.2	41.1	-36.0
State	\$164.7	\$117.5	-28.7

With the notable exception of Riverside and Orange counties, there was a deep decline in affordable housing expenditures throughout Southern California. The drop off in expenditures between 1988 and 1989 is provided by County and the City of Los Angeles (the largest redevelopment agency in the SCAG region) in Table 5.

While expenditure levels increased dramatically in Riverside County (182.5%), and to a lesser extent in Orange County (38%), they decreased significantly everywhere else. The biggest fall off on an absolute basis was in the City of Los Angeles (\$21.2 million). However, the City is also the largest redevelopment agency and spends more on housing than any other area.

Table 5

Southern California Low and Moderate Income Housing Account
Expenditures FY 1988 and FY 1989 (in millions)

Area	FY'88	FY'89	Pct Chg
Ventura Co.	\$2.5	\$1.7	-32.0
L.A. City	51.6	30.4	-41.1
Remainder. L.A. Co.	21.8	10.2	-53.2
Orange Co.	13.8	19.1	38.4
Riverside Co.	4.0	11.3	182.5
San Bernardino Co.	5.7	3.3	-42.1
Imperial Co.	1.1	0.3	-72.7
Region	\$100.5	\$76.3	-24.1

3. Units Assisted in Fiscal Year (FY) 1988-89

Statewide there were a reported 7,241 units assisted through local redevelopment agency Low and Moderate Income Housing Accounts. These units were the product of replacement, preservation and new construction activity begun in prior years, but completed in the 1988-89 reporting period. However, only 62 agencies out of 196 maintaining a Low and Moderate Income Housing Account reported assisting any units (32%).

In Southern California, 4,136 units were assisted by 27 out of a total of 99 agencies maintaining a Low and Moderate Income Housing Account. About 2/5 of the units assisted were for very low income households. The city of Los Angeles reported assisting almost 1/4 of all these units (949). Other agencies reporting relatively high numbers of units assisted are noted in Table 6.

Table 6

Units Assisted by Southern California
Redevelopment Agencies by Income Group
FY 1988-89

Agency	Total	V Low	Low	Mod	High
Los Angeles, City	949	792	157	0	0
Santa Fe Springs	519	130	176	129	84
Yorba Linda	297	0	50	247	0
Thousand Oaks	293	126	33	134	0
Santa Ana	286	59	86	141	0
Banning	234	0	234	0	0
Santa Monica	222	163	39	20	0
Subtotal	2,800	1,270	775	671	84
20 Remaining Juris.	1,336	511	631	167	27
Region Total	4,136	1781	1406	838	111
Percent	100%	43%	34%	20%	3%

4. Ending Balance as of June 30, 1989

Redevelopment Agencies in California reported an ending balance in their Low and Moderate Income Housing Accounts totaling \$333.2 million. This is an increase of about a \$100 million over the last reporting period. Added tax increments and other revenues coupled with a drop in expenditure levels are illustrative of a slow down in affordable housing investment leading to an accumulation of more unspent funds. This total does not include an additional \$58.1 million in local agency indebtedness due to 20% tax increment setaside deferrals (agencies borrowing housing tax increments for public improvements per a local finding).

In Southern California, agencies reported a \$249.6 million ending balance and \$44 million in setaside deferrals. While 1/2 of all the State's redevelopment agencies with Low and Moderate Income Housing Accounts are located in the Southland, the region accounts for 75% of the total in the ending balance and in setaside deferrals.

While large account balances exist in every area of the region, the distribution of Low and Moderate Income Housing Funds by subregion show that they are primarily concentrated in the Greater Los Angeles Area. Large deposits also exist in Northwest Orange County and the Inland Empire (San Bernardino and Riverside Counties), as noted in Table 7.

Table 7

Ending Balances in Low and Moderate Income
Housing Accounts by Subregion (in \$ millions)
June 30, 1989

Subregion/ Area	\$ Amt	Pct
City of Los Angeles	\$71.3	28.6%
Northwest Orange Co	44.6	17.9%
Chino Basin	32.1	12.9%
Central L.A.*	17.2	6.9%
Riverside Desert	15.5	6.2%
East San Bernardino Valley	13.3	5.3%
East San Gabriel Valley	11.2	4.5%
Riverside Corona	9.6	3.8%
Other areas	34.8	13.9%
Total	\$249.6	100%

* excludes L.A. City area

5. State HCD Estimate of Funds Available on July 1, 1989

The State Housing and Community Development Department (HCD) estimates the amount available for affordable housing assistance each year by subtracting accounts receivable, accounts payable, amounts reserved for special purposes and the value of land held for residential development from the ending balances of the Low and Moderate Income Housing Accounts of each redevelopment agency.

Using this approach, State HCD estimated that \$224.9 million was uncommitted statewide, of which \$179.9 million or 80% was available in Southern California. Moreover, it appears that the amount available from year to year is growing at a higher rate in the Southland than the rest of the State.

The percentage rise in funds available was almost 3 1/2 times greater in the region than in the remainder of the State in the 1987-88 period and was about 8 times greater in the 1988-89 period, as shown in Table 8.

Table 8

Available Funds as
Estimated by State HCD
FY 1987, 1988 and 1989
(in \$ millions)

Area	'87	'88	'89	% Chg '87-88	% Chg '88-89
So Calif.	\$55.0	\$127.5	\$179.9	132%	41%
Remainder of Ca.	30.9	42.7	45.0	38%	5%
State	\$85.9	\$170.2	\$224.9	98%	32%

From last year to this year, the amount of available funds increased in every area except Riverside County. The biggest percentage increase in available funds was in San Bernardino County, where the available funds doubled. The largest absolute increase was in the City of Los Angeles, as shown in Table 9.

Table 9

Low and Moderate Income Housing
Funds Available as Estimated By State HCD
in Southern California
(in \$ millions)

County/ Area	1988	1989	% Chg 1988-89
Ventura Co	\$4.3	\$6.1	41.9%
City of L.A.	26.2	44.5	69.8%
Remainder L.A. Co	24.1	36.7	52.3%
Orange Co	33.8	37.1	9.8%
Riverside Co	19.1	15.4	-19.4%
San Bernardino Co	18.8	38.3	103.7%
Imperial Co	1.2	1.7	41.7%
Region	\$127.5	\$179.9	41.1%

State HCD estimated that there were 36 redevelopment agencies in Southern California that had more than \$1 million in available funds, 18 agencies that had \$1/2 million or more and 47 agencies with less than \$1/2 million, as shown in Table 10. Recent legislation, calls for the declaration of an "excess surplus" in the Low Income Housing Account when: (1) an unexpended and unencumbered amount exceeds \$500,000, or (2) any amount accumulates in such a fund for the preceding 5 years and there is no plan to use the funds (Health & S.C. 33334.12(d)(1)).

When an "excess surplus" is declared, the agency must adopt an expenditure plan for all moneys in the fund within 5 years. Agencies which fail to expend or encumber those excess surplus funds within the 5 year planning period, following adoption of an expenditure plan, are required to disburse those funds to the County Housing Authority or other Housing Authorities operating within the Agency's jurisdiction or another public agency exercising housing development powers within the territorial jurisdiction of the agency (Health & S.C. 33334.12(a)).

Thus, it may take up to 10 years for funds to revert from a redevelopment agency to a public housing authority or other housing development agency. Because many City Councils sit as the board of directors of both the redevelopment agency and the local public housing authority, skeptics have noted that, "it's like shifting money from one pocket to another." About 1/2 of all redevelopment agencies in southern California have Low and Moderate Income Account balances in excess of \$500,000.

Table 10

Redevelopment Agencies by Amount of Available
Low and Moderate Income Housing Funds
as Estimated by State HCD
June 30, 1989

\$ Amount	Total	%	Subtotal by County					
			Ven	IA	OR	RIV	SB	IMP
\$1/2 million or less	47	47%	4	20	9	9	3	2
\$1/2 to \$1 million	18	18%	0	8	4	3	3	0
\$1 million or more	36	36%	2	12	7	6	8	1
Total	101	100%	6	40	20	18	14	3

Among the 36 redevelopment agencies with more than \$1 million available, 9 have over \$5 million available. Geographically, most of these agencies are located in either San Bernardino or Orange County. However, by far and away, the highest amount of available money was reported in the City of Los Angeles — \$44.5 million (Table 11).

Table 11

Redevelopment Agencies with \$5 Million Available
in their Low and Moderate Income Housing Account
as Estimated by State HCD
June 30, 1989

Agency	County	\$ Amt
City of Los Angeles	LA	\$44.5
Brea	OR	12.5
Ontario	SB	9.0
City of Orange	OR	7.2
Colton	SB	6.5
City of San Bernardino	SB	5.9
Pomona	LA	5.8
Huntington Beach	OR	5.2
Rancho Cucamonga	SB	5.2

A. Value of Land held for Residential Use

In calculating the amount of funding available, State HCD subtracted the value of land held for low and moderate income housing development by redevelopment agencies. There were 13 redevelopment agencies that utilized tax increment funds for "land banking." Most of these agencies are located in Los Angeles and Riverside Counties and are listed in Table 12. It is not stated whether or not residential land values are based on site purchase cost, an estimated value by the agency or a fair market value appraisal.

Table 12

Redevelopment Agencies Reporting the Value of Land
in their Low and Moderate Income Housing Accounts

Agency	County	\$ Amt
Indian Wells	RIV	\$4,280,000
Commerce	LA	3,390,000
Pomona	LA	2,440,000
Culver City	LA	1,700,000
Riverside	RIV	1,670,000
Huntington Park	LA	1,240,000
Pasadena	LA	984,000
Ontario	SB	760,000
Santa Ana	OR	300,000
Santa Fe Springs	LA	260,000
Palm Desert	RIV	225,000
Azusa	LA	209,000
El Centro	IMP	21,000

6. Exemptions and Deferrals

Redevelopment agencies may adopt findings annually which exempt or defer a project from setting aside 20% of its tax increments in a Low and Moderate Income Housing Fund. Although tax increments for affordable housing may be used outside of a project area and throughout a jurisdiction, the exemption findings are made by project area and there may be several different findings adopted when more than one project area exists in a community. There is no cumulative impact finding required when more than one is adopted and each project area qualifies separately for each finding. Deferrals, but not exemptions, are considered an indebtedness to the project which agencies must eliminate. The categories for exemptions and deferrals relate to specific provisions in State Health & Safety Code 33334.2 and 33334.6. In San Bernardino County, an additional deferral mechanism related to military base closings is provided that has unique provisions (Health & S.C. 33320.5)

A. Exemptions

(1) Agencies may find that no need exists in the community to improve or increase the supply of affordable housing. Such a finding is lawful only when: (A) it is consistent with the local Housing Element and (B) all replacement housing requirements are met (Health & S.C. 33334.2(a)(1)).

Agencies adopting this finding for a project area are:

County	Jurisdiction
Los Angeles	Downey
	Glendora
	Palmdale
	Pomona
San Bernardino	Big Bear Lake

(2) Agencies may find that some stated percentage less than 20% of tax increments is needed to meet community housing needs. Such a finding is lawful only when: (A) it is consistent with the housing element and (B) all replacement housing requirements are met (Health & S.C. 33334.2(a)(2)).

Agencies adopting this finding for a project area are:

County	Jurisdiction
Ventura	Thousand Oaks
Los Angeles	Azusa
	Glendora
	Santa Fe Springs
	Walnut
Orange	Fountain Valley
Riverside	Banning

(3) Agencies may find that the community is making substantial efforts to meet existing and projected housing needs, particularly its regional fair share of very low income household needs, as identified in the local housing element, and that this effort is equivalent in impact to the funds that would be otherwise setaside. Such equivalent impact must be from, or a combination of, local funds and state and federal grants which the community may at its discretion use for the same purposes that 20% setaside funds are used for in increasing and improving the supply of low and moderate income housing. This finding may be made only if it is consistent with the local housing element and if all replacement housing needs are met (Health & S.C. 33334.2(a)(3)).

Agencies adopting this finding for a project area are:

County	Jurisdiction
Ventura	Thousand Oaks
Los Angeles	Carson Cudahy Culver City Glendora Hawaiian Gardens Huntington Park La Mirada Long Beach Monterey Park Norwalk Pico Rivera Pomona San Dimas Santa Fe Springs South Gate West Covina
Orange	Santa Ana
Riverside	Lake Elsinore Riverside
San Bernardino	Ontario Redlands

B. Deferrals

In 42 Southern California project areas, the deposit of tax increment funds in a special Low and Moderate Income Housing Fund is being deferred. The resulting indebtedness, as of June 30, 1989, is \$44,046,949. About 1/3 (\$15 million) of the indebtedness was reported by the City of Burbank Redevelopment Agency (see Appendix 8 for a listing of deferral amounts by jurisdiction). Because of deficit reporting problems, some agencies provided only the latest year's deferral amount rather than a cumulative amount; thus the total figures probably underestimate the extent of indebtedness to Low and Moderate Income Housing Accounts.

State law allows an indebtedness to a Low and Moderate Income Housing Fund to be established in an amount equal to the unfulfilled housing obligation when the full 20% cannot be set aside due to existing debits or other obligations. This applies to project areas adopted prior to 1977 that adopted statements of existing and prior obligations. Such an indebtedness requires agencies to adopt a deficit elimination plan and adopt one or both of the below-mentioned findings.

(1) Agencies may find that they must set aside an amount less than 20% in tax increments for affordable housing if such a lesser amount is needed to meet existing obligations incurred in a project area created prior to 1986. (Health & S.C. 33334.6(D)).

Agencies adopting this finding for a project area are:

County	Jurisdiction
Ventura	Oxnard San Buenaventura
Los Angeles	Arcadia Azusa Baldwin Park Bell Gardens Burbank El Monte Hawthorne Industry Inglewood La Mirada Lakewood Long Beach Los Angeles Montebello Rosemead Santa Monica Signal Hill Temple City Whittier
Orange	Anaheim Costa Mesa Fountain Valley
Riverside	Corona Palm Springs Riverside
San Bernardino	Barstow San Bernardino

(2) Prior to July 1, 1996, an agency may deposit less than the 20% tax increment amount for affordable housing if it finds that a lesser amount is necessary to provide for the orderly and timely completion of projects, programs or activities approved prior to 1986 (Health S.C. 33334.6(E)).

Agencies adopting this finding for a project area include:

County	Jurisdiction
Ventura	Oxnard Port Hueneme
Los Angeles	Alhambra Arcadia Bell Gardens Burbank Cerritos Covina Hawthorne Industry Inglewood Lakewood Long Beach Los Angeles Montebello Palmdale Redondo Beach Rosemead Santa Monica Signal Temple City
Orange	Anaheim Fountain Valley Fullerton Seal Beach Tustin Palm Desert

(3) There is an exception to only pre-1986 deferrals granted under a new law for military base closures in San Bernardino County. The new law allows a post-1986 redevelopment area to defer 20% tax increments to a Low and Moderate Income Housing Fund. Because of the closing of two military installations in San Bernardino County, the legislature passed a special law in 1989 (AB 481) allowing privately owned land adjacent or in close proximity (3 miles), to a military facility or installation proposed to be closed by the Federal Government, to qualify as a redevelopment area. This law exempts the area from meeting urban blight standards in California redevelopment law, allows a deferral procedure for postponing 20% tax increment payments to the Low and Moderate Income Housing Fund and designates the Executive Committee of the Southern California Association of Governments as the entity that must review and approve a local finding that a deferral is necessary to achieve redevelopment goals. These are all unique conditions under California redevelopment law.

The legislation makes SCAG (the regional planning agency responsible for long-range growth planning and Regional Housing Needs Assessment preparation) the entity responsible for certifying the need for redevelopment, the extent of economic hardship, the local financing strategy, the level (if any) of housing fund deferral and the housing account repayment plan for local jurisdictions participating in military base reuse when they propose to defer depositing all or part of their low and moderate income housing setaside funds.

There are four jurisdictions in San Bernardino County that have formed a "sub regional" redevelopment agency, under a joint powers agreement to redevelop and reuse Norton Air Force Base. The jurisdictions include the cities of Colton, Loma Linda, San Bernardino and the County of San Bernardino.

Health and Safety Code section 33320.5 requires that if the redevelopment plan for a military installation calls for deferral of taxes for the Low and Moderate Income Housing Fund, the agency must conduct a public hearing and SCAG must review and approve findings supported by substantial evidence that all of the following apply:

1. The facility cannot be acquired or developed by private enterprise without the assistance of the agency;
2. There are no other means of financing the development other than by utilizing the low and moderate income housing portion of the taxes;
3. Failure of the agency to finance the development of the installation would lead to serious financial hardship;
4. That the development plan contains a repayment plan that provides for the shortest feasible time to reduce the housing fund deficit.

Pursuant to a May 16, 1990 request by the Inland Valley Redevelopment Agency, and after a local public hearing on June 13, 1990, the Agency requested a deferral of no more than 30 years for depositing 20% of their tax increments into an Affordable Housing Account.

On July 5, 1990, the SCAG Executive Committee considered materials submitted by the joint powers redevelopment agency (Inland Valley Redevelopment Agency), a staff presentation and related testimony and found that the local findings were supported by substantial evidence and approved the deferral request of the agency.

V. Housing Element Status of Redevelopment Agency Communities

1. Housing Element Status as of March 31, 1990

According to the latest State HCD report evaluating the status of local Housing Elements, almost 80% of the Southern California jurisdictions with redevelopment agency Low and Moderate Income Housing Accounts have Housing Elements that were found to not be in compliance with State law. There were 69 jurisdictions found to be out of compliance out of 90 for whom reviews were completed. Another 16 jurisdictions have their proposed Housing Elements undergoing State HCD review. Only 21 jurisdictions had Housing Elements conforming with State law.

However, in terms of jurisdictions without Low and Moderate Income Housing Accounts, 96% of these community's were found to have a Housing Element not conforming with State Law. There were 54 jurisdictions with a nonconforming Housing Element out of 56 reviewed by State HCD. Another 16 communities were still under review at the time of the latest HCD report. The information on the status of the State HCD review of Housing Elements appears in Table 13.

Table 13

Status of State HCD Reviews of Local Housing Elements for Jurisdictions With and Without a Low and Moderate Income Housing Fund (March, 1990)

A. Jurisdictions with a L & M Fund

Status	Region	VEN	LA	OR	RIV	SB	IMP
In	21	2	8	7	2	2	0
Out	69	4	32	8	10	12	3
Ukn	16	3	2	4	6	0	1
	106	9	42	19	18	14	4

B. Jurisdictions without a L & M Fund

In	2	0	1	1	0	0	0
Out	54	2	38	5	2	3	4
Ukn	16	0	4	5	2	5	0
	72	2	43	11	4	8	4
Total	178	11	85	30	22	22	8

In= In Compliance

Out= Out of Compliance

Ukn= Unknown (under review)

If the local Housing Element is viewed as "out of compliance" by the State, then it brings into question whether or not a redevelopment agency exemption or deferral finding is consistent with the State Redevelopment and Housing Law. This is an important legal issue since many jurisdictions making local findings have Housing Elements viewed by the state as inadequate.

For example, if a redevelopment agency submits an exemption finding to the State, is the finding "valid" if the local Housing Element is not up to date ("obsolete") or otherwise "out of compliance" after a State HCD review?

The extent of Housing Element noncompliance evidences a serious gap between what State HCD views as "in conformance" and what local governments view as "in conformance." Many times the dispute over conformance relates to the extent to which local governments are providing or not providing housing assistance to low and moderate income households, including making available adequate sites; the extent to which governmental constraints are being addressed or removed such as excessive fees and development standards, growth controls (moratoriums), zoning, subdivision map regulation, building codes, and; policies which act as a disincentive to residential growth in the face of a market demand for housing.

APPENDICES

NOTE: In appendices 2, 3 and 4, the Value in Residential Land, Other Not Available and \$ Amount Available Column totals do not equal the 6/89 Ending Balance Amount. This is because a deficit amount (indicated by parentheses) exists in the Amount Available column for one or more jurisdictions in the county. These amounts are treated as a zero for addition purposes since a deficit in one jurisdiction does not affect the amount available in other communities.

APPENDIX 1. VENTURA COUNTY

1988-89 STATUS OF REDEVELOPMENT LOW & MODERATE INCOME HOUSING FUNDS

JURISDICTION	FUNDS EXPENDED	UNITS VLOW	ASST. LOW	BY FUND MOD HIGH	6/89 ENDING BALANCE	VALUE IN RESID. LAND	OTHER NOT AVAIL.	\$ AMT. AVAIL.
FILMORE	18,390	0	0	0	0	907,688	422,075	485,613
OJAI	0	0	0	0	0	229,120		229,120
OXNARD	0	0	0	0	0	109,625		109,625
SAN BUENAVENTURA	0	0	0	0	0	408,087	82,100	325,987
SIMI VALLEY	387,707	0	0	0	0	2,332,903	236,000	2,096,903
THOUSAND OAKS	1,329,055	126	33	134	0	3,023,930	131,775	2,892,155
TOTAL	1,735,152	126	33	134	0	7,011,353	0	871,950

NON-REPORTING AGENCIES

CAMARILLO
MOORPARK
SANTA PAULA

APPENDIX 2. LOS ANGELES COUNTY

1988-89 STATUS OF REDEVELOPMENT LOW & MODERATE INCOME HOUSING FUNDS

JURISDICTION	FUNDS EXPENDED	UNITS VLOW	ASST. LOW	BY FUND MOD HIGH	6/89 ENDING BALANCE	VALUE IN RESID. LAND	OTHER NOT AVAIL.	\$ AMT. AVAIL.
ALHAMBRA	0	0	0	0	0	615,033		615,033
AVALON	0	0	0	0	0	431,581	21,713	409,868
AZUSA	320,645	0	0	0	0	718,666	208,582	609,522
BALDWIN PARK	47,178	0	0	0	0	95,755		(99,438)
BELL	22,738	0	11	0	0	943,609	48,000	95,755
BELL GARDENS	63,193	0	0	0	0	76,194		895,609
								76,194
CLAREMONT	252,198	0	0	0	0	(637,712)	22,595	(660,307)
COMMERCE	359,749	76	0	0	0	4,831,880	3,387,560	81,073
COMPTON	2,012,064	0	0	0	0	5,146,415	630,709	1,363,247
COVINA	30,229	0	0	0	0	74,447		4,515,706
								74,447
CULVER CITY	889,588	0	0	0	0	4,785,068	1,767,763	89,334
GLENDAL	0	0	0	0	0	1,400,000		2,927,971
GLENDORA	87,803	0	0	0	0	(19,944)		1,400,000
HAWTHORNE	0	0	0	0	0	653,126		(19,944)
HUNTINGTON PARK	0	0	0	0	0	(1,959,474)	1,240,281	653,126
INGLEWOOD	38,080	0	0	0	0	2,239,872		3,199,755
								2,239,872
IRWINDALE	0	0	0	0	0	2,074,363	2,586	2,071,777
LANCASTER	1,091,344	0	0	0	0	2,326,815		2,326,815
LA VERNE	250,777	0	34	0	0	132,138	19,238	112,900
LONG BEACH	229,062	0	6	5	0	4,179,712	271,215	3,908,497
LOS ANGELES	30,381,000	792	157	0	0	71,309,000	26,799,000	44,510,000
MAYWOOD	6,870	0	0	0	0	487,826		487,826
MONROVIA	43,738	0	0	0	0	1,866,103	96,687	1,769,416
MONTEBELLO	0	0	0	0	0	922,384	100,121	822,263
PARAMOUNT	394,587	157	0	0	0	(900,792)		(900,792)
PASADENA	1,251,570	0	0	0	0	752,101	984,253	50,722
PICO RIVERA	602,137	81	103	0	0	423,159		(282,874)
POMONA	115,619	5	0	3	0	8,765,462	2,439,764	477,696
RANCHO PAOLOS V.	0	0	0	0	0	10,568	10,568	5,848,002
REDONDO BCH	0	16	4	4	0	913,618		0
								913,618
SAN FERNANDO	0	0	0	0	0	679,588		679,588
SANTA FE SP	985,639	130	176	129	84	1,342,477	258,269	205,522
SANTA MONICA	406,934	163	39	20	0	501,228		878,686
SIERRA MADRE	0	0	0	0	0	609,576	609,576	397,830
SO PASADENA	0	0	0	0	0	106,582		103,398
TORRANCE	289,934	24	85	10	0	711,048		0
WALNUT	0	0	0	0	0	83,428	18,498	609,576
								106,582
WEST COVINA	187,018	0	0	0	0	0		711,048
WHITTIER	251,726	0	75	0	0	583,376	1,014,929	64,930
UNINCORP. AREA	0	0	0	0	0	163,911		(431,553)
								163,911
TOTAL	40,611,420	1,444	690	171	84	120,956,109	10,286,472	31,577,134
								81,169,244

NON-REPORTING AGENCIES

DOWNEY
DUARTE

1988-89 STATUS OF REDEVELOPMENT LOW & MODERATE INCOME HOUSING FUNDS

[illegible]

APPENDIX 4. RIVERSIDE COUNTY

1988-89 STATUS OF REDEVELOPMENT LOW & MODERATE INCOME HOUSING FUNDS

JURISDICTION	FUNDS EXPENDED	UNITS VLOW	ASST. LOW	BY FUND MOD HIGH	6/89 ENDING BALANCE	VALUE IN RESID. LAND	OTHER NOT AVAIL.	\$ AMT. \$ AMT. AVAIL.	
BANNING	26,513	0	234	0	0	186,327		186,327	
BLYTHE	0	0	0	0	0	273,050		273,050	
CATHEDRAL CITY	320,484	18	107	56	0	441,853	1,036,124	(594,271)	
COACHELLA	30,154	0	0	0	0	637,040	6,132	630,908	
CORONA	236,947	21	15	0	0	3,491,458	7,789	3,483,669	
DESERT HOT SPR.	3,261	0	0	0	0	(189,386)	586,007	(775,393)	
HEMET	1,182	0	0	0	0	444,947		444,947	
INDIAN WELLS	49,978	0	0	0	0	4,278,787	4,278,797	(10)	
LA QUINTA	40,439	2	4	1	0	402,121		402,121	
MORENO VALLEY	0	0	0	0	0	249,592		249,592	
NORCO	1,731,286	0	0	0	0	2,784,532	141,663	2,642,869	
PALM DESERT	8,292,791	0	0	0	0	4,903,965	225,000	3,873,887	
PALM SPRINGS	355,774	10	35	5	0	597,886		597,886	
PERRIS	173,425	0	0	0	0	816,608		816,608	
RIVERSIDE	0	0	0	0	0	3,020,000	1,668,000	1,264,000	
SAN JACINTO	28,666	0	0	0	0	234,886		234,886	
UNINCORP. AREA	0	0	0	0	0	314,808	20,000	294,808	
TOTAL	11,290,900	51	395	62	0	23,077,860	6,171,797	2,690,793	15,395,558

NON-REPORTING AGENCY

RANCHO MIRAGE - AMOUNT AVAILBLE FOR FY '89 WAS \$4,431,943

APPENDIX 5. SAN BERNARDINO COUNTY

1988-89 STATUS OF REDEVELOPMENT LOW & MODERATE INCOME HOUSING FUNDS

JURISDICTION	FUNDS EXPENDED	UNITS VLOW	ASST. LOW	BY FUND MOD HIGH	6/89 ENDING BALANCE	VALUE IN RESID. LAND	OTHER NOT AVAIL.	\$ AMT. AVAIL.
ADELANTO	71,695	0	0	0	679,483			679,483
CHINO	25,210	0	0	0	674,468		30,096	644,372
COLTON	0	0	0	0	6,478,029			6,478,029
FONTANA	712,283	0	0	0	9,217,404		5,716,990	3,500,414
GRAND TERRACE	0	0	0	0	726,103			726,103
MONTCLAIR	2,012,673	3	18	2	1,639,744		108,002	1,531,742
NEEDLES	0	0	0	0	176,596			176,596
ONTARIO	0	0	0	0	9,762,254	761,089		9,001,165
RANCHO CUCAMONGA	398,800	0	0	0	5,587,141		374,490	5,212,651
RIALTO	2,000	0	0	0	1,451,120		1,218,217	232,903
SAN BERNARDINO	92,521	0	0	0	5,859,809			5,859,809
UPLAND	20,199	0	0	0	3,907,084		11,137	3,895,947
VICTORVILLE	0	0	0	0	372,244			372,244
TOTAL	3,335,381	3	18	2	46,531,479	761,089	7,458,932	38,311,458

NON-REPORTING AGENCY

LOMA LINDA - AMOUNT AVAILABLE IN FY '89 WAS \$491,955

APPENDIX 6. IMPERIAL COUNTY

1988-89 STATUS OF REDEVELOPMENT LOW & MODERATE INCOME HOUSING FUNDS

JURISDICTIONS	FUNDS EXPENDED	UNITS VLOW	ASST. LOW	BY FUND MOD	HIGH	6/89 ENDING BALANCE	VALUE IN RESID. LAND	OTHER NOT AVAIL.	\$ AMT. AVAIL.
BRAWLEY	0	0	0	0	0	140,650			140,650
CALEXICO	31,754	0	0	0	0	1,177,022			1,177,022
EL CENTRO	238,401	0	0	0	0	440,105	20,600	14,219	405,286
TOTAL	270,155	0	0	0	0	1,757,777	20,600	14,219	1,722,958

NON-REPORTING AGENCY

HOLTVILLE

APPENDIX 7. REGIONAL SUMMARY

1988-89 STATUS OF REDEVELOPMENT LOW & MODERATE INCOME HOUSING FUNDS

COUNTY	FUNDS EXPENDED	UNITS VLOW	ASST. LOW	BY FUND MOD HIGH	6/89 ENDING BALANCE	VALUE IN RESID. LAND	OTHER NOT AVAIL.	\$ AMT. AVAIL.	
VENTURA	1,735,152	126	33	134	0	7,011,353	0	871,950	6,139,403
LOS ANGELES	40,611,420	1,444	690	171	84	120,956,109	10,286,472	31,577,134	81,169,244
ORANGE	19,133,910	157	270	469	27	50,276,345	299,751	12,110,198	37,119,080
RIVERSIDE	11,290,900	51	395	62	0	23,077,860	6,171,797	2,690,793	15,395,558
SAN BERNARDINO	3,335,381	3	18	2	0	46,531,479	761,089	7,458,932	38,311,458
IMPERIAL	270,155	0	0	0	0	1,757,777	20,600	14,219	1,722,958
TOTAL	76,376,918	1,781	1,406	838	111	249,610,923	17,539,709	54,723,226	179,857,701

Appendix 8

Tax Increment Deferrals FY 1989

County	Jurisdiction	\$ Amount
Ventura	Oxnard	\$483,419
	Port Hueneme	\$427,390
	San Buenaventura	\$196,771
	Total	\$1,107,580
Los Angeles	Alhambra	\$714,609
	Arcadia	\$967,300
	Azusa	\$142,185
	Baldwin Park	\$18,153
	Bell Gardens	NA
	Burbank	\$15,175,000
	Cerritos	NA
	Covina	\$1,133,802
	El Monte	NA
	Glendora	\$479,902
	Hawthorne	\$155,229
	Industry	\$2,860,000
	Inglewood	\$870,640
	La Mirada	\$32,917
	Lakewood	\$560,910
	Long Beach	\$1,091,173
	Los Angeles	\$411,620
	Montebello	\$5,144,626
	Palmdale	NA
	Redondo Beach	\$891,067
	Rosemead	\$2,334,000
	Santa Monica	\$180,383
	Signal Hill	\$856,883
	Temple City	\$162,000
	Whittier	NA
	Total	\$34,182,399
Orange	Anaheim	NA
	Costa Mesa	\$991,327
	Fountain Valley	\$551,673
	Fullerton	\$822,425
	Seal Beach	\$541,190
	Tustin	\$421,158
	Total	\$3,327,773

County	Jurisdiction	\$ Amount
Riverside	Corona	\$26,851
	Palm Desert	\$2,653,121
	Palm Springs	\$280,000
	Riverside	NA
	Total	\$2,959,972
San Bernardino	Barstow	\$213,102
	San Bernardino	\$2,256,123
	Total	\$2,469,225
Imperial	None	\$0
	Region	\$44,046,949
	State	\$58,075,988

existing city limits line of Sanger, then continuing south along the east line of the northeast quarter of Section 15 475.01 feet, that being contiguous with the existing city limit of Sanger, for a total of 1467.06 feet, thence westerly, along a line 1180.15 feet 15, 880.90 feet, more or less to the easterly right-of-way line of the Southern Pacific Railroad Company's right-of-way; thence leaving the existing city limits line of Sanger, northwesterly, along the easterly right-of-way line of the railroad as the same is shown on the Map of Mountain View Addition to Sanger, recorded February 18, 1891, in Book 4 of Plats, Page 66, Fresno County Records, to the point of intersection with the north line of the northeast quarter of Section 15; thence easterly along the north line, 2191.00 feet to the point of commencement. This territory contains a little more or less than 50.13 acres.

(b) The conclusive presumption that the unblighted territory described in subdivision (a) is necessary for effective redevelopment applies only to territory within the City of Sanger.
(Added by Stats.1986, c. 531, § 2.)

§ 33320.5. Predominantly urbanized land; application; privately owned land in proximity of military installation; joint powers agency; project area; redevelopment plan

(a) Notwithstanding Section 33320.1, the requirement that privately owned land within a project area be "predominantly urbanized," as that term is defined in subdivision (b) of Section 33320.1, shall not apply to privately owned land within a project area, if the privately owned land is adjacent or in proximity to a military facility or installation which is proposed to be closed pursuant to Public Law 100-526 and the inclusion of the privately owned land is found by an entity formed pursuant to subdivision (b) to be necessary for the effective redevelopment of the military facility or installation and the adjacent area.

(b) The legislative bodies for communities having territory within, adjacent to or in proximity to a military facility or installation described in subdivision (a) may create a separate joint powers agency pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, which shall have and exclusively exercise powers of an agency in furtherance of the redevelopment of a project area approved by the joint powers agency. In addition to the powers of an agency, the joint powers agency so formed shall also act as the legislative body and planning commission for all approvals and actions required by this part of legislative bodies and planning commissions for the adoption and implementation of a redevelopment plan. However, all land use, planning, and development decisions with regard to the land within the project area shall continue to be under the control and jurisdiction of each of the respective local legislative bodies or planning commissions, as applicable.

(c) The territory included within the project and project area may be contiguous or noncontiguous, and any project area may be located in whole or in part within one or more of the communities impacted by the closure of the military facility or installation, and the land to be included within the project area within the community or communities in proximity to the military facility or installation shall be found necessary for the effective redevelopment of the military facility or installation and the adjacent area. A project area shall not include territory outside the jurisdiction of the communities that are parties to the joint powers agency without the consent of the legislative body having jurisdiction over the territory proposed to be included within the project area.

(d) A redevelopment plan for the project area shall contain all of the provisions required by this part. However, if the agency finds, based on substantial evidence on the record, that compliance with the requirements of Sections 33333.2 and 33334.1 would make it impracticable to achieve the policies of this section, the agency may eliminate or modify the requirements of Sections 33333.2 and 33334.1.

(e) The redevelopment plan shall provide for either of the following:

(1) A Low- and Moderate-Income Housing Fund, as required by Section 33334.2.

(2) A deferral for depositing all or part of the 20 percent of taxes allocated to the agency pursuant to Section 33670 in the Low- and Moderate-Income Housing Fund if the agency, after conducting a noticed public hearing, makes, and the executive committee of the Southern California Association of Governments reviews and approves, findings supported by substantial evidence that all of the following apply:

(A) The military facility or installation cannot be acquired or developed by private enterprise without the assistance of the agency.

(B) There are no feasible alternative means of financing the acquisition or development of the military facility or installation other than by utilizing the low- and moderate-income housing portion of the taxes which are allocated to the agency pursuant to subdivision (b) of Section 33670.

Additions in text are indicated by underline; deletions by asterisks * * *

(C) Failure of the agency to finance the acquisition or development of the military facility or installation would lead to serious economic hardship and job loss.

(D) The redevelopment plan shall specify the period during which less than 20 percent of the taxes which are allocated to the agency pursuant to subdivision (b) of Section 33670, is to be deposited in the Low- and Moderate-Income Housing Fund. The redevelopment plan shall also contain a repayment plan which specifies a date at which time the agency will have made up the deficit created by the deferral, including repayment of the interest at the highest rate received by the agency on funds it deposits during the period of deferral. The repayment plan shall reduce the deficit in the shortest feasible time consistent with the needs of the agency, as specified in the agency's findings.

(f) The joint powers agency acting as the agency, the legislative body or the planning commission, shall follow all procedures under this part applicable to the adoption and amendment of redevelopment plans, except with respect to Sections 33347.5, 33353 to 33353.6, inclusive, Sections 33354.4 to 33354.6, inclusive, and Section 33385.

(g) The agency shall create a fiscal advisory group to consult with each affected taxing agency and to advise and report to the agency in the manner required of a fiscal review committee by Section 33353.5 on any potential fiscal impact upon affected taxing agencies within the project area. The fiscal advisory group shall consist of the financial officer or treasurer of each city and each county which created the joint powers authority.

(h) The agency shall prepare and distribute to each affected taxing agency a report which includes the information required by Section 33328. The agency shall also prepare an analysis of the report required of a fiscal review committee pursuant to subdivision (m) of Section 33352 and an analysis of the report required of the fiscal advisory group pursuant to subdivision (g).

(i) As used in this section, "in proximity to" means within three miles of the boundary of Norton Air Force Base and within eight miles of George Air Force Base.

(j) The Legislature finds and declares that the closure of two or more military facilities or installations within the County of San Bernardino will cause serious economic hardship in that county, including loss of jobs, increased unemployment, deterioration of properties and land utilization and undue disruption of the lives and activities of the people. Therefore, the Legislature finds and declares that to avoid serious economic hardship and accompanying blight, it is necessary to enact this act which shall apply only within the County of San Bernardino. In enacting this act, it is the policy of the Legislature to assist communities within the County of San Bernardino in their attempt to preserve the military facilities and installations for their continued use as airports and aviation-related purposes.

(Added by Stats.1989, c. 545, § 1.)

Historical Note

1989 Legislation

Section 2 of Stats.1989, c. 545, provides:

"The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable

within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances faced by the County of San Bernardino. The County of San Bernardino is the county in California in which two military facilities or installations are proposed to be closed pursuant to Public Law 100-526."

§ 33321. Scope of project area

A project area need not be restricted to buildings, improvements, or lands which are detrimental or inimical to the public health, safety, or welfare, but may consist of an area in which such conditions predominate and injuriously affect the entire area. A project area may include lands, buildings, or improvements which are not detrimental to the public health, safety or welfare, but whose inclusion is found necessary for the effective redevelopment of the area of which they are a part. Each such area included under this section shall be necessary for effective redevelopment and shall not be included for the purpose of obtaining the allocation of tax increment revenue from such area pursuant to Section 33670 without other substantial justification for its inclusion.

(Amended by Stats.1976, c. 1336, pp. 6055, 6056, § 8.)

Notes of Decisions

1. In general

Proposed expenditure of federal block grant funds in connection with urban renewal project geared toward development of regional shopping center would not violate Title I of the Housing and Community Development Act of 1974 (42 U.S.C.A. § 5301), on ground that such use was not

primarily for benefit of low and moderate income people, since Title I also states that elimination of blight is an approved objective of community development activities and, under state law, the area to be developed for the shopping center had been designated a blighted area. National Ass'n for advancement of Colored persons (NAACP)-Santa Rosa-Sonoma County Branch v. Hills (D.C.1976) 412 F.Supp. 102.

Additions in text are indicated by underline; deletions by asterisks * * *

§ 33333.5. Repealed by Stats.1976, c. 1337, p. 6065, § 5

§ 33334.1. Bonded indebtedness; limitation

If the plan authorizes the issuance of bonds to be repaid in whole or in part from the allocation of taxes pursuant to Section 33670, the plan shall establish a limit on the amount of bonded indebtedness which can be outstanding at one time without an amendment of the plan. This section shall apply only to redevelopment plans adopted on or after October 1, 1976.

(Added by Stats.1976, c. 1337, p. 6065, § 6.)

§ 33334.2. Housing for persons and families of low or moderate income; findings

(a) Not less than 20 percent of all taxes which are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing and improving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by Section 50052.5, to persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105, unless one of the following findings is made annually by resolution:

(1) That no need exists in the community to improve or increase the supply of low- and moderate-income housing in a manner which would benefit the project area and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(2) That some stated percentage less than 20 percent of the taxes which are allocated to the agency pursuant to Section 33670 is sufficient to meet the housing needs of the community and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(3) That the community is making a substantial effort to meet its existing and projected housing needs, including its share of the regional housing needs, with respect to persons and families of low and moderate income, particularly very low income households, as identified in the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, and that this effort, consisting of direct financial contributions of local funds used to increase and improve the supply of housing affordable to persons and families of low or moderate income and very low income households, is equivalent in impact to the funds otherwise required to be set aside pursuant to this section. In addition to any other local funds, these direct financial contributions may include federal or state grants paid directly to a community and which the community has the discretion of using for the purposes for which moneys in the Low and Moderate Income Housing Fund may be used. The legislative body shall consider the need which can be reasonably foreseen because of displacement of persons and families of low or moderate income or very low income households from within, or adjacent to, the project area, because of increased employment opportunities, or because of any other direct or indirect result of implementation of the redevelopment plan. No finding under this subdivision may be made until the community has provided or ensured the availability of replacement dwelling units as defined in Section 33411.2 and until it has complied with the provisions of Article 9 (commencing with Section 33410).

(b) Within 10 days following the making of a finding under subdivision (a), the agency shall send the Department of Housing and Community Development a copy of the finding, including the factual information supporting the finding.

(c) In any litigation to challenge or attack a finding made under paragraph (1), (2), or (3) of subdivision (a), the burden shall be upon the agency to establish that the finding is supported by substantial evidence in light of the entire record before the agency.

(d) Nothing in this section shall be construed as relieving any other public entity or entity with the power of eminent domain of any legal obligations for replacement or relocation housing arising out of its activities.

(e) In carrying out the purpose of this section, the agency may exercise any or all of its powers, including the following:

(1) Acquire land or building sites.

(2) Improve land or building sites with onsite or offsite improvements, but only if the improvements directly and specifically improve or increase the community's supply of low- or moderate-income housing.

Additions in text are indicated by underline; deletions by asterisks * * *

(3) Donate land to private or public persons or entities.

(4) Finance insurance premiums pursuant to Section 33136.

(5) Construct buildings or structures.

(6) Acquire buildings or structures.

(7) Rehabilitate buildings or structures.

(8) Provide subsidies to, or for the benefit of, very low income households, as defined by Section 50105, lower income households, as defined by Section 50079.5, or persons and families of low or moderate income, as defined by Section 50093, to the extent those households cannot obtain housing at affordable costs on the open market. Housing units available on the open market are those units developed without direct government subsidies. Subsidies for the purpose of this paragraph include any costs or reduced income resulting from below-market-rate sale or lease, grant, or donation of land to private for-profit and nonprofit organizations for the purpose of providing low- and moderate-income housing, if at least half the units provided as a result of each transfer are affordable to lower income households, as defined in Section 50079.5.

(9) Develop plans, pay principal and interest on bonds, loans, advances, or other indebtedness, or pay financing or carrying charges.

(10) Maintain the community's supply of mobilehomes.

(11) Preserve the availability to lower income households of affordable housing units in housing developments which are assisted or subsidized by public entities and which are threatened with imminent conversion to market rates.

(f) The agency may use these funds to meet, in whole or in part, the replacement housing provisions in Section 33413. However, nothing in this section shall be construed as limiting in any way the requirements of that section.

(g) The agency may use these funds inside or outside the project area. The agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that such use will be of benefit to the project. The determination by the agency and the legislative body shall be final and conclusive as to the issue of benefit to the project area. The Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is always of benefit to a project. Unless the legislative body finds before the redevelopment plan is adopted, that the provision of low- and moderate-income housing outside the project area will be of benefit to the project, the project area shall include property suitable for low- and moderate-income housing.

(h) The costs of undertaking activities authorized in subdivision (e) may be paid from an agency's Low and Moderate Income Housing Fund to the extent that those activities result in the provision or preservation of housing units which are consistent with this section.

(i) Any reduced income resulting from the below-market-rate sale or lease, grant, or donation of land to private for-profit and nonprofit organizations, as specified in paragraph (8) of subdivision (e), may be debited to an agency's Low and Moderate Income Housing Fund. The amount of any debit shall not be subject to any transfer required by law for failure to expend or encumber the moneys held in a Low and Moderate Income Housing Fund.

(j) The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the project.

(k) The requirements of this section shall only apply to taxes allocated to a redevelopment agency for which a final redevelopment plan is adopted on or after January 1, 1977, or for any area which is added to a project by an amendment to a redevelopment plan, which amendment is adopted on or after the effective date of this section. An agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project for which a redevelopment plan was adopted prior to January 1, 1977, subject to any indebtedness incurred prior to the election.

(l) (1) Notwithstanding Sections 50079.5, 50093, and 50105, for purposes of providing assistance to mortgagors participating in a homeownership residential mortgage revenue bond program pursuant to Section 33750, or a home financing program pursuant to Section 52020, or a California Housing Finance Agency home financing program, "area median income" means the highest of the following:

(A) Statewide median household income.

(B) Countywide median household income.

(C) Median family income for the area, as determined by the United States Department of Housing and Urban Development with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

Additions in text are indicated by underline; deletions by asterisks * * *

Nothing in Section 50093 shall prevent the agency from adopting separate family size adjustment factors or programmatic definitions of income to qualify households, persons, and families for the programs of the agency.

(2) To the extent that any portion of the Low and Moderate Income Housing Fund is expended to provide assistance to mortgagors participating in programs whose income exceeds that of persons and families of low or moderate income, as defined in Section 50093, the agency shall, within two years, expend or enter into a legally enforceable agreement to expend twice that sum exclusively to increase and improve the community's supply of housing available at affordable housing cost, as defined in Section 50052.5, to lower income households, as defined in Section 50079.5, of which at least 50 percent shall be very low income households, as defined in Section 50105.

(3) In addition to the requirements of subdivision (c) of Section 33413, the agency shall require that the lower and very low income dwelling units developed pursuant to this subdivision remain available at affordable housing cost to lower and very low income households for at least 30 years, except as to dwelling units developed with the assistance of federal or state subsidy programs which terminate in a shorter period and cannot be extended or renewed.

(4) The agency shall include within the report required by Section 33080 information with respect to compliance by the agency with the requirements of this subdivision.

(Added by Stats.1976, c. 1337, p. 6065, § 7. Amended by Stats.1979, c. 1073, p. 3838, § 1.2; Stats.1979, c. 1191, p. 4682, § 10.5; Stats.1984, c. 1030, § 1; Stats.1987, c. 665, § 1, eff. Sept. 15, 1987; Stats.1987, c. 1111, § 5.5; Stats.1988, c. 1564, § 2.)

Historical Note

1979 Legislation

Amendment of this section by § 10 of Stats.1979, c. 1191, p. 3341, failed to become operative under the provisions of § 28 of that Act.

Section 4 of Stats.1979, c. 1073, p. 3841, provided:

"As to findings under Section 33334.2 of the Health and Safety Code made prior to the effective date of this act, each agency shall send the Department of Housing and Community Development notification of such findings, including the factual information supporting them, within 30 days after the effective date of this act."

Effect of amendment of section by two or more acts at the same session of the legislature, see Government Code § 9605.

1987 Legislation

Amendment of this section by § 5 of Stats.1987, c. 1111, failed to become operative under the provisions of § 9 of that Act.

Effect of amendment of section by two or more acts at the same session of the legislature, see Government Code § 9605.

1988 Legislation

Amendment of this section by § 2.5 of Stats.1988, c. 1564, failed to become operative under the provisions of § 4 of that Act.

Code of Regulations References

Program eligibility and affordability for lower income households, see 25 Cal. Code of Regs. 6910 et seq.

Library References

Municipal Corporations ¶223, 985.

C.J.S. Municipal Corporations §§ 958 to 960, 2117 et seq.

§ 33334.3. Low and moderate income housing fund

(a) The funds which are required by Section 33334.2 or 33334.6 to be used for the purposes of increasing and improving the community's supply of low- and moderate-income housing shall be held in a separate Low and Moderate Income Housing Fund until used.

(b) Any interest earned by the Low and Moderate Income Housing Fund and any repayments or other income to the agency for loans, advances, or grants, of any kind from the Low and Moderate Income Housing Fund, shall accrue to and be deposited in, the fund and may only be used in the manner prescribed * * * for the Low and Moderate Income Housing Fund.

(c) The moneys in the Low and Moderate Income Housing Fund shall be used to increase, improve, and preserve the supply of low- and moderate-income housing within the territorial jurisdiction of the agency.

(d) It is the intent of the Legislature that the Low and Moderate Income Housing Fund be used to the maximum extent possible to defray the costs of production, improvement, and preservation of low- and moderate-income housing and that the amount of money spent for planning and general administrative activities associated with the development, improvement, and preservation of that housing not be disproportionate to the amount actually spent for the costs of production, improvement, or preservation of that housing.

(e) The requirements of this subdivision apply to all new or substantially rehabilitated housing units developed or otherwise assisted, with moneys from the Low and Moderate Income Housing Fund, pursuant to an agreement approved by an agency on or after January 1, 1988. Except to the extent a longer period of time may be required by other provisions of law, the agency shall require

Additions in text are indicated by underline; deletions by asterisks * * *

that housing units subject to this subdivision shall remain available at affordable housing costs to persons and families of low or moderate income and very low income households for the longest feasible time, but for not less than the following periods of time, except as provided in . . . Section 33334.13:

(1) Fifteen years for rental units. However, the agency may replace rental units with equally affordable and comparable rental units in another location within the community if (A) the replacement units are available for occupancy prior to the displacement of any persons and families of low or moderate income residing in the units to be replaced and (B) the comparable replacement units are not developed with moneys from the Low and Moderate Income Housing Fund.

(2) Ten years for owner-occupied units. However, the agency may permit sales of owner-occupied units prior to the expiration of the 10-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program which protects the agency's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program which establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy. The remainder of the excess proceeds of the sale shall be allocated to the agency and deposited in the Low and Moderate Income Housing Fund.

The agency shall require the recording in the office of the county recorder of covenants or restrictions implementing this subdivision for each parcel or unit of real property subject to this subdivision. Notwithstanding any other provision of law, the covenants or restrictions shall run with the land and shall be enforceable, against the original owner and successors in interest, by the agency or the community.

(f) "Housing," as used in this section, includes residential hotels, as defined in subdivision (k) of Section 37912. The definitions of "lower income households" and "very low income households" in Sections 50079.5 and 50105 shall apply to this section. "Longest feasible time," as used in this section, includes, but is not limited to, unlimited duration.

(g) "Increasing, improving, and preserving the community's supply of low- and moderate-income housing," as used in this section and in Section 33334.2, includes the preservation of rental housing units assisted by federal, state, or local government on the condition that units remain affordable to low- and moderate-income households, including very low income households, for a specified period of time, beyond the date the subsidies and use restrictions could be terminated and the assisted housing units converted to market rate rentals. In preserving these units the agency shall require the units remain affordable to persons and families of low- and moderate-income and very low income households for the longest feasible time. However, the agency may replace rental units with equally affordable and comparable rental units in another location within the community if (1) the replacement units are available for occupancy prior to the displacement of any persons and families of low or moderate income residing in the units to be replaced and (2) the comparable replacement units are not developed with moneys from the Low and Moderate Income Housing Fund.

(Added by Stats.1976, c. 1337, p. 6067, § 8. Amended by Stats.1979, c. 1191, p. 4683, § 11; Stats.1985, c. 1135, § 1; Stats.1987, c. 1111, § 6; Stats.1988, c. 1604, § 4.2; Stats.1989, c. 881, § 1; Stats.1989, c. 1140, § 3.5.)

Historical Notes

1983 Legislation

Amendment of this section by § 4.3 of Stats.1983, c. 1604, failed to become operative under the provisions of § 9 of that Act.

1989 Legislation

Under the provisions of § 13 of Stats.1989, c. 1140, the 1989 amendments of this section by c. 881 and c. 1140 were given effect and incorporated in the form set forth in § 3.5

of c. 1140. An amendment of this section by § 3 of Stats.1989, c. 1140, failed to become operative under the provisions of § 13 of that Act.

Cross References

Tax allocation, deposit in fund, see § 33487.

Library References

Municipal Corporations ⇨887.
C.J.S. Municipal Corporations § 1884.

§ 33334.4. Expenditure of funds to assist housing for low and very low income persons; policy; legislative findings and declarations

The Legislature finds and declares that it shall be the policy of each agency to expend, over the duration of the redevelopment plan, the moneys in the Low and Moderate Income Housing Fund to assist housing for persons of low and very low income in at least the same proportion as the total number of housing units needed for those income groups which are not being provided by other governmental programs bears to the total number of units needed for persons of moderate, low and very low income within the community.

(Added by Stats.1989, c. 1140, § 4.)

Additions in text are indicated by underline; deletions by asterisks * * *

§ 33334.5. Replacement dwelling units; place provisions

Every redevelopment plan adopted or amended to expand the project area after * * * January 1, 1977, shall contain a provision that whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall, within four years of such destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income an equal number of replacement dwelling units at affordable * * * housing costs, as defined by Section 50052.5, within the project area or within the territorial jurisdiction of the agency, in accordance with all of the provisions of Sections 33413 and 33413.5.

(Added by Stats.1976, c. 1339, p. 6074, § 1. Amended by Stats.1979, c. 1191, p. 4684, § 12.)

Library References

Municipal Corporations ⇐282.

C.J.S. Municipal Corporations § 1078.

§ 33334.6. Deposit of tax increment moneys into low and moderate income housing fund; legislative findings; applicability of section; existing obligations; completion of projects, programs, or activities; statement of existing obligations or programs; deficit; indebtedness; standard of review

(a) The Legislature finds and declares that the provision of housing is itself a fundamental purpose of the Community Redevelopment Law and that a generally inadequate statewide supply of decent, safe, and sanitary housing affordable to persons and families of low or moderate income, as defined by Section 50093, threatens the accomplishment of the primary purposes of the Community Redevelopment Law, including job creation, attracting new private investments, and creating physical, economic, social, and environmental conditions to remove and prevent the recurrence of blight. The Legislature further finds and declares that the provision and improvement of affordable housing, as provided by Section 33334.2, outside of redevelopment project areas can be of direct benefit to those projects in assisting the accomplishment of project objectives whether or not those redevelopment projects provide for housing within the project area. The Legislature finds and determines that the provision of affordable housing by redevelopment agencies and the use of taxes allocated to the agency pursuant to subdivision (b) of Section 33670 is of statewide benefit and of particular benefit and assistance to all local governmental agencies in the areas where the housing is provided.

(b) This section is applicable to all project areas, or portions of project areas, which are not subject to Section 33334.2, except that a project area, or portion of a project area, for which a resolution was adopted pursuant to subdivision (i) of Section 33334.2 is subject to this section. Project areas subject to this section * * * which are merged prior to, or on or after, January 1, 1986, are subject to the requirements of both this section and Section 33487. The deposit of taxes into the Low and Moderate Income Housing Fund in compliance with either this section or Section 33487 shall satisfy the requirements of both sections in the year those taxes are deposited.

(c) Except as otherwise permitted by subdivisions (d) and (e), not less than 20 percent of the taxes allocated to the agency pursuant to Section 33670 from project areas specified in subdivision (b) for the 1985-86 fiscal year and each succeeding fiscal year shall be deposited into the Low and Moderate Income Housing Fund established pursuant to Section 33334.3 and used for the purposes set forth in Section 33334.2, unless the agency, by resolution, makes one of the findings described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 33334.2. Subdivisions (b) and (c) of Section 33334.2 apply if an agency makes any of those findings.

(d) In any fiscal year, the agency may deposit less than the amount required by subdivision (c) into the Low and Moderate Income Housing Fund if the agency finds that the difference between the amount deposited and the amount required by subdivision (c) is necessary to make payments under existing obligations of amounts due or required to be committed, set aside, or reserved by the agency during that fiscal year and which are used by the agency for that purpose. For purposes of this section, "existing obligations" means the principal of, and interest on, loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the agency to finance or refinance, in whole or in part, any redevelopment project existing on, and created prior to January 1, 1986, and contained on the statement of existing obligations adopted pursuant to subdivision (f). Obligations incurred on or after January 1, 1986, shall be deemed existing obligations for purposes of this section if the net proceeds are used to refinance existing obligations contained on the statement.

(e) In each fiscal year prior to July 1, 1996, the agency may deposit less than the amount required by subdivisions (c) and (d) into the Low and Moderate Income Housing Fund if the agency finds that

Additions in text are indicated by underline; deletions by asterisks * * *

the deposit of less than the amount required by those subdivisions is necessary in order to provide for the orderly and timely completion of public and private projects, programs, or activities approved by the agency prior to January 1, 1986, which are contained on the statement of existing programs adopted pursuant to subdivision (f). Approval of these projects, programs, and activities means approval by the agency of written documents which demonstrate an intent to implement a specific project, program, or activity and is not limited to final approval of a specific project, program, or activity.

(f) Any agency which deposits less than the amount required by subdivision (c) into the Low and Moderate Income Housing Fund pursuant to subdivision (d) or (e) shall adopt prior to September 1, 1986, by resolution, after a noticed public hearing, a statement of existing obligations or a statement of existing programs, or both.

(1) The agency shall prepare and submit the proposed statement to the legislative body and to the Department of Housing and Community Development prior to giving notice of the public hearing. Notice of the time and place of the public hearing shall be transmitted to the Department of Housing and Community Development at least 15 days prior to the public hearing and notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the community once a week for at least two successive weeks prior to the public hearing. The legislative body shall maintain a record of the public hearing.

(2) A copy of the resolution adopted by the agency, together with any amendments to the statement of the agency, shall be transmitted to the Department of Housing and Community Development within 10 days following adoption of the resolution by the agency.

(3) A statement of existing obligations shall describe each existing obligation and, based upon the best available information, as determined by the agency, list the total amount of the existing obligation, the annual payments required to be made by the agency pursuant to the existing obligation, and the date the existing obligation will be discharged in full.

(4) A statement of existing programs shall list the specific public and private projects, programs, or activities approved prior to January 1, 1986, which are necessary for the orderly completion of the redevelopment plan as it existed on January 1, 1986. No project, program, or activity shall be included on the statement of existing programs unless written evidence of the existence and approval of the project, program, or activity prior to January 1, 1986, is attached to the statement of existing programs.

(g) If, pursuant to subdivision (d) or (e), the agency deposits less than 20 percent of the taxes allocated to the agency pursuant to Section 33670 in the 1985-86 fiscal year or any subsequent fiscal year in the Low and Moderate Income Housing Fund, the amount equal to the difference between 20 percent of the taxes allocated to the agency pursuant to Section 33670 for each affected project and the amount deposited that year shall constitute a deficit of the project. The agency shall adopt a plan to eliminate the deficit in subsequent years as determined by the agency.

(h) The obligations imposed by this section, including deficits, if any, created under this section, are hereby declared to be an indebtedness of the redevelopment project to which they relate, payable from taxes allocated to the agency pursuant to Section 33670, and shall constitute an indebtedness of the agency with respect to the redevelopment project until paid in full.

(i) In any litigation to challenge or attack a statement of existing obligations, the decision by the agency after the public hearing to include an existing obligation on the statement of existing obligations, or the decision by the agency after the public hearing to include a project, program, or activity on the statement of existing programs, the court shall uphold the action of the agency unless the court finds that the agency has abused its discretion. The Legislature finds and declares that this standard of review is necessary in order to protect against the possible impairment of existing obligations, programs, and activities because agencies with project areas adopted prior to January 1, 1977, have incurred existing obligations and have adopted projects, programs, and activities with the authority to receive and pledge the entire allocation of funds authorized by Section 33670.

(Added by Stats.1985, c. 1135, § 2. Amended by Stats.1987, c. 1111, § 7; Stats.1988, c. 1604, § 4.5; Stats.1989, c. 1140, § 5.)

Historical Note

1987 Legislation

Stats.1987, c. 1111, § 1, provides:

"The Legislature reaffirms its finding and declaration, stated in Section 33334.6 of the Health and Safety Code, that the provision of housing is itself a fundamental purpose of the Community Redevelopment Law and that a generally inadequate statewide supply of decent, safe, and sanitary

housing affordable to persons of low and moderate income, as defined by Section 50093 of that code, threatens the accomplishment of the primary purposes of the Community Redevelopment Law, including job creation, attracting new private investments, and creating physical, economic, social, and environmental conditions to remove and prevent the recurrence of blight, and that the provision of affordable housing by redevelopment agencies and the use of taxes

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allocated to the agency pursuant to subdivision (b) of Section 33670 of that code is of statewide benefit and of

particular benefit and assistance to all local governmental agencies where the housing is provided."

§ 33334.7. Low and moderate income housing programs; priority consideration for assistance

Programs to assist or develop low- and moderate-income housing pursuant to Sections 33334.2, 33334.3, 33334.6, 33413, and 33449 shall be entitled to priority consideration for assistance in housing programs administered by the California Housing Finance Agency, the Department of Housing and Community Development, and other state agencies and departments, if those agencies or departments determine that the housing is otherwise eligible for assistance under a particular program. (Added by Stats.1985, c. 1135, § 3.)

§ 33334.8. Assisted multifamily rental housing; termination of subsidy contracts or mortgage prepayments; notice requirements

The same notice requirements as specified in Section 65863.10 of the Government Code shall apply to multifamily rental housing that receives financial assistance pursuant to Sections 33334.2, 33334.3, and 33334.6.

(Added by Stats.1988, c. 1563, § 1.)

§ 33334.9. Offsets and credits

Notwithstanding Sections 33334.2 and 33334.3, assistance provided by an agency to preserve the availability to lower income households of affordable housing units which are assisted or subsidized by public entities and which are threatened with imminent conversion to market rates may be credited and offset against an agency's obligations under Section 33334.2.

(Added by Stats.1988, c. 1564, § 3.)

§ 33334.10. Low and moderate income housing fund; excess surplus; plan for expenditure; requisites

(a) Except as otherwise provided in this subdivision, not later than six months following the close of any fiscal year of an agency in which excess surplus accumulates in the agency's Low and Moderate Income Housing Fund, the agency may adopt a plan pursuant to this section for expenditure of all moneys in the Low and Moderate Income Housing Fund within five years from the end of that fiscal year. The plan may be general and need not be site-specific, but shall include objectives respecting the number and type of housing to be assisted, identification of the entities, which will administer the plan, alternative means of ensuring the affordability of housing units for the longest feasible time, as specified in subdivision (e) of Section 33334.8 the income groups to be assisted, and a schedule by fiscal year for expenditure of the excess surplus.

(b) The agency shall separately account for each excess surplus either as part of or in addition to a Low and Moderate Income Housing Fund.

(c) If the agency develops a plan for expenditure of excess surplus or other moneys in the Low and Moderate Income Housing Fund, a copy of that plan and any amendments thereto shall be included in the agency's annual report required by Article 6 (commencing with Section 33080).

(Added by Stats.1988, c. 1565, § 3.)

§ 33334.12. Failure of agency to expend or encumber excess surplus in low and moderate income housing fund; transfer to housing authority; limitations

(a) Upon failure of the agency to expend or encumber excess surplus in the Low and Moderate Income Housing Fund within five years from the date the moneys become excess surplus, within the meaning defined in Section 33334.10, the agency shall disburse that excess surplus to the county housing authority or other housing authority operating within the agency's jurisdiction or another public agency exercising housing development powers within the territorial jurisdiction of the agency in accordance with subdivision (b). The housing authority shall utilize the moneys for the purposes and subject to the same restrictions as applicable to the redevelopment agency under this part, and for that purpose may exercise all of the powers of a housing authority under Part 2 (commencing with Section 34200) to the extent not inconsistent with these limitations.

Notwithstanding Section 34209 or any other provision of law, for the purpose of accepting a transfer of, and using, moneys pursuant to this section, the housing authority of a county may exercise its powers within the territorial jurisdiction of a city redevelopment agency in the county.

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(b) The amount of excess surplus which shall be transferred to the housing authority because of failure of the agency to expend or encumber excess surplus within five years shall be the amount of the excess surplus that is not so expended or encumbered.

(c) Nothing in this section shall be construed to limit any authority a redevelopment agency may have under other provisions of this part to contract with a housing authority for increasing or improving the community's supply of low- and moderate-income housing.

(d) For purposes of this section:

(1) "Excess surplus" means any unexpended and unencumbered amount in an agency's Low and Moderate Income Housing Fund that exceeds the greater of five hundred thousand dollars (\$500,000) or the aggregate amount deposited into the Low and Moderate Income Housing Fund pursuant to Sections 33334.2 and 33334.6 during the agency's preceding five fiscal years.

(2) Moneys shall be deemed encumbered if committed pursuant to a legally enforceable contract or agreement for expenditure for purposes specified in Section 33334.2 or 33334.3.

(Added by Stats.1988, c. 1565, § 4. Amended by Stats.1989, c. 1360, § 95.)

§ 33334.14. Subordination of covenants and restrictions imposed by agency; merged development projects and low and moderate income housing fund

(a) The covenants or restrictions imposed by the agency pursuant to subdivision (e) of Section 33334.3 may be subordinated under any of the following alternatives:

(1) To a lien, encumbrance, or regulatory agreement under a federal or state program when a federal or state agency is providing financing, refinancing, or other assistance to the housing units or parcels, if the federal or state agency refuses to consent to the seniority of the agency's covenant or restriction on the basis that it is required to maintain its lien, encumbrance, or regulatory agreement or restrictions due to statutory or regulatory requirements, adopted or approved policies, or other guidelines pertaining to the financing, refinancing, or other assistance of the housing units or parcels.

(2) To a lien, encumbrance, or regulatory agreement of a lender other than the agency or from a bond issuance providing financing, refinancing, or other assistance of owner-occupied units or parcels where the agency makes a finding that an economically feasible alternative method of financing, refinancing, or assisting the units or parcels on substantially comparable terms and conditions, but without subordination, is not reasonably available.

(3) To an existing lien, encumbrance, or regulatory agreement of a lender other than the agency or from a bond issuance providing financing, refinancing, or other assistance of rental units, where the agency's funds are utilized for rehabilitation of the rental units.

(4) To a lien, encumbrance, or regulatory agreement of a lender other than the agency or from a bond issuance providing financing, refinancing, or other assistance of rental units or parcels where the agency makes a finding that an economically feasible alternative method of financing, refinancing, or assisting the units or parcels on substantially comparable terms and conditions, but without subordination, is not reasonably available, and where the agency obtains written commitments reasonably designed to protect the agency's investment in the event of default, such as any of the following:

(A) A right of the agency to cure a default on the loan.

(B) A right of the agency to negotiate with the lender after notice of default from the lender.

(C) An agreement that if prior to foreclosure of the loan, the agency takes title to the property and cures the default on the loan, the lender will not exercise any right it may have to accelerate the loan by reason of the transfer of title to the agency.

(D) A right of the agency to purchase property from the owner at any time after a default on the loan.

(b) Notwithstanding the definition of "construction and rehabilitation" in subdivision (a) of Section 33487, an agency which has merged redevelopment projects pursuant to Article 16 (commencing with Section 33485) of Chapter 4, and which is required to deposit taxes into the Low and Moderate Income Housing Fund pursuant to subdivision (a) of Section 33487, may use any of the funds for the purposes and in the manner permitted by Sections 33334.2 and 33334.3. However, in that event, the time periods specified in paragraphs (1) and (2) of subdivision (e) of Section 33334.3 shall both be extended to 30 years. Nothing in this subdivision shall allow an agency with merged project areas pursuant to Article 16 (commencing with Section 33485) to utilize the provisions of paragraph (1), (2),

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or (3) of subdivision (a) of Section 33334.2 so as to avoid or reduce its obligations to deposit taxes from merged project areas into the Low and Moderate Income Housing Fund.

(Added by Stats.1989, c. 997, § 1.)

§ 33334.15. Subsidies; payment of portion of principal and interest on bonds

Subsidies provided pursuant to paragraph (8) of subdivision (e) of Section 33334.2 may include payment of a portion of the principal and interest on bonds issued by a public agency to finance housing for persons and families specified in that paragraph if the agency ensures by contract that the benefit of the subsidy will be passed on to those persons and families in the form of lower housing costs.

(Added by Stats.1989, c. 1155, § 1.)

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